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LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, WEST DISTRICT

WRITERS GUILD OF AMERICA, WEST,
INC.; WRITERS GUILD OF AMERICA,
EAST, INC.; PATRICIA CARR; ASHLEY
GABLE; BARBARA HALL; DERIC A.
HUGHES; GEORGE JOHANNESSEN;
DEIRDRE MANGAN; DAVID SIMON; and
MEREDITH STIEHM,

Plaintiffs,

v.

WME ENTERTAINMENT; CREATIVE
ARTISTS AGENCY; UNITED TALENT
AGENTS; INTERNATIONAL CREATIVE
MANAGEMENT PARTNERS; and DOES 1-
10,

Defendants.

Case No. 19SMCV00725

**DEFENDANT CREATIVE ARTISTS
AGENCY, LLC'S ANSWER TO THE
FIRST AMENDED COMPLAINT OF
PLAINTIFFS DAVID SIMON,
MEREDITH STIEHM, AND INDIVIDUAL
PLAINTIFFS FOR BREACH OF
FIDUCIARY DUTY, CONSTRUCTIVE
FRAUD, UNFAIR COMPETITION (CAL.
BUS. & PROF. CODE § 17200 ET SEQ.)**

Action Filed: April 17, 2019
Trial Date: None Set

Pursuant to Sections 431.10, *et seq.*, of the California Code of Civil Procedure, Defendant Creative Artists Agency, LLC ("CAA") hereby answers the First Amended Complaint of the individual Plaintiffs in this action, namely David Simon and Meredith Stiehm, as well as Patricia Carr, Ashley Gable, Barbara Hall, Deric A. Hughes, George Johannessen, and Deirdre Mangan ("Individual Plaintiffs"). As to the Individual Plaintiffs, CAA generally denies each and every allegation of the

1 First Amended Complaint (“FAC”) and further generally denies that any of them are entitled to any
2 relief. This Answer alleges certain facts relating to the claims of David Simon and Meredith Stiehm.
3 CAA may, and reserves its right to, amend this answer as provided under the Code of Civil Procedure
4 to more specifically address with additional factual allegations the equally meritless allegations of the
5 remaining individual Plaintiffs.

6 CAA does not at this time answer the FAC of Plaintiffs Writers Guild of America West, Inc.,
7 and Writers Guild of America East, Inc. (collectively, “WGA”) because CAA intends to file separate
8 responsive pleadings as to the WGA’s claims.

9 **AFFIRMATIVE DEFENSES**

10 CAA further pleads the following separate and additional defenses. By pleading these
11 defenses, CAA does not in any way agree or concede that it has the burden of proof or persuasion on
12 any of these issues. CAA reserves the right to assert such additional affirmative defenses as discovery
13 indicates are proper.

14 In support of its affirmative defenses, CAA alleges as follows:

15 **THE CLAIMS OF DAVID SIMON AND MEREDITH STIEHM ARE MERITLESS**

16 The Individual Plaintiffs that the WGA has included in this lawsuit include David Simon and
17 Meredith Stiehm. As demonstrated below, neither Mr. Simon nor Ms. Stiehm has any basis for
18 bringing a claim against CAA with respect to packaging fees.

19 **David Simon**

20 David Simon claims that he was harmed because of his inclusion in a packaging arrangement
21 for the television series, *Homicide: Life on the Street*, which was produced over seven seasons
22 between 1993 and 1999. In April 2000, after the conclusion of the final season, Mr. Simon
23 complained to CAA about the packaging fees that CAA received with respect to *Homicide*. He
24 claimed that as a first-time television writer (prior to the *Homicide* project he had worked only as a
25 journalist), he was unaware of the existence of the packaging arrangements and packaging fees that
26 CAA received for that series, and that he was harmed by that packaging arrangement. He and CAA
27 resolved that dispute, and on May 4, 2000, in return for a payment of \$30,000, Mr. Simon expressly
28 released CAA in writing from any and all claims with respect to *Homicide*, specifically including any

1 claims arising out of CAA's packaging fees. Thus, almost two decades ago, Mr. Simon waived and
2 released any possible claims that he might have about packaging arrangements relating to *Homicide*.

3 During the ensuing 19 years, Mr. Simon did not wish to be, and was not, included in packaging
4 arrangements. Thus, the only injury that Mr. Simon alleges occurred more than 19 years ago, and
5 after discovering that injury in April 2000, Mr. Simon expressly and specifically waived and released
6 that claim. Thereafter, until the WGA ordered the mass firing of agents on April 12, 2019, Mr. Simon
7 continuously retained his CAA agent, whom he admits has "been forthright and fair in all of my
8 subsequent years in television." It could not be clearer that Mr. Simon's claims are barred for many
9 reasons, including the doctrines of waiver and release, and the lapsing of the statutes of limitations on
10 any possible claims that he might have with respect to *Homicide*.

11 **Meredith Stiehm**

12 Meredith Stiehm's claims are equally preposterous. She has known for decades that she was
13 being included in television packages, and has repeatedly agreed in writing for 24 years that CAA,
14 after helping her to secure employment on television shows, would receive prescribed packaging fees
15 from the production studios instead of charging her any commissions. The first such instance
16 occurred in July of 1995, when CAA secured employment for Ms. Stiehm on an ongoing packaged
17 television series, *Beverly Hills 90210*. At that time, Ms. Stiehm acknowledged and authorized CAA to
18 charge a standard packaging fee, which enabled Ms. Stiehm to avoid paying any commissions on her
19 earnings from that show.

20 Later, as CAA helped Ms. Stiehm land jobs on new series such as *NYPD Blue*, *ER*, and *Cold*
21 *Case*, Ms. Stiehm repeatedly authorized CAA to receive the prescribed packaging fees on those
22 television programs instead of charging her a commission for the agency's services. She was also
23 well aware that she profited from the arrangements that CAA negotiated on her behalf. The allegation
24 that Meredith Stiehm was somehow deceived or disadvantaged by not having to pay 10 percent of her
25 earnings to CAA in the form of commissions is certainly false, but, in any event, Ms. Stiehm, and her
26 very sophisticated team of lawyers and accountants, have known for decades about every single
27 packaging arrangement in which Ms. Stiehm participated.

1 Meredith Stiehm's specific claims in the FAC against CAA are confined to the *Cold Case*
2 project. These claims have no merit whatsoever. Prior to the *Cold Case* project, Ms. Stiehm had
3 never served as a showrunner. CAA's agents, in an effort to secure a showrunner opportunity for Ms.
4 Stiehm, brought Ms. Stiehm together with another CAA client, Jerry Bruckheimer, to work on the
5 development of the *Cold Case* project. Through the work of Mr. Bruckheimer's production company,
6 as well as Mr. Bruckheimer's deserved stature and acclaim, CAA was able to present a very attractive
7 project to the studio and help secure showrunner status for Ms. Stiehm.

8 CAA closed Ms. Stiehm's deal for *Cold Case* in March 2003. Ms. Stiehm and her
9 representatives were aware at all relevant times that the show was being pitched as a package. Indeed,
10 Ms. Stiehm was represented in the *Cold Case* negotiations by a very experienced entertainment law
11 firm; her lawyer knew of the profit definitions applicable to the project, including the packaging
12 arrangements, and actually proposed revisions to the profit definitions, which the studio accepted. At
13 no point did Ms. Stiehm or her counsel object to the use of a packaging fee during those negotiations
14 or during the ensuing 16 years before she joined the WGA in filing this lawsuit.

15 During those years, Ms. Stiehm also knew that she was not being charged a commission on the
16 *Cold Case* project. CAA initially charged Ms. Stiehm a commission fee for the pilot of the project,
17 but, as is customary, once the series was ordered to production (at which point CAA became entitled
18 to receive a packaging fee), CAA refunded the commission to Ms. Stiehm because CAA would be
19 compensated solely by the packaging fee. Ms. Stiehm thus returned the check that had been issued
20 after deducting the ten-percent commission and received in its place a check for the pilot without any
21 commission charged. In fact, Ms. Stiehm never paid any commission to CAA on *Cold Case*, and she
22 never asked that CAA forgo any form of packaging fee and instead charge her a commission.

23 In addition, as part of the development of *Cold Case*, Ms. Stiehm received, as an additional
24 benefit, a lucrative overall writer and producer deal with a studio. Under that deal, Ms. Stiehm was
25 expressly informed that CAA was to receive a package per the studio's standard definition. Ms.
26 Stiehm expressly agreed to this arrangement, and was made aware of its existence by no later than
27 2006, when the agreement was revised.

1 It is clear that Ms. Stiehm's claims are barred for many reasons, including the doctrines of
2 waiver and consent, and the running of the statutes of limitations on any possible claims that she
3 might have with respect to *Cold Case*.

4 **FIRST AFFIRMATIVE DEFENSE**

5 **(Failure To State A Claim Upon Which Relief May Be Granted)**

6 1. For the reasons stated above, as well as others, the First Amended Complaint fails
7 to state a claim upon which relief can be granted.

8 **SECOND AFFIRMATIVE DEFENSE**

9 **(Consent)**

10 2. For the reasons stated above, as well as others, the First Amended Complaint is
11 barred, in whole or in part, based on the doctrine of consent.

12 **THIRD AFFIRMATIVE DEFENSE**

13 **(Laches)**

14 3. For the reasons stated above, as well as others, the First Amended Complaint is
15 barred, in whole or in part, by the doctrine of laches.

16 **FOURTH AFFIRMATIVE DEFENSE**

17 **(Preemption)**

18 4. For the reasons stated above, as well as others, the First Amended Complaint is
19 barred, in whole or in part, by the preemptive effect of federal law.

20 **FIFTH AFFIRMATIVE DEFENSE**

21 **(Statute Of Limitations)**

22 5. For the reasons stated above, as well as others, the First Amended Complaint is
23 barred, in whole or in part, by the relevant statutes of limitations.

24 **SIXTH AFFIRMATIVE DEFENSE**

25 **(Unclean Hands)**

26 6. For the reasons stated above, as well as others, the First Amended Complaint is
27 barred, in whole or in part, by the doctrine of unclean hands.

1 **SEVENTH AFFIRMATIVE DEFENSE**

2 **(Waiver)**

3 7. For the reasons stated above, as well as others, the First Amended Complaint is
4 barred, in whole or in part, by the doctrine of waiver.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 **(Estoppel)**

7 8. For the reasons stated above, as well as others, the First Amended Complaint is
8 barred, in whole or in part, based on principles of estoppel.

9 **NINTH AFFIRMATIVE DEFENSE**

10 **(Lack Of Subject Matter Jurisdiction)**

11 9. The First Amended Complaint is barred, in whole or in part, based on a lack of
12 subject matter jurisdiction.

13 **TENTH AFFIRMATIVE DEFENSE**

14 **(Misjoinder)**

15 10. The First Amended Complaint is barred, in whole or in part, based on a misjoinder
16 of parties.

17 WHEREFORE, Defendant prays for relief as follows:

- 18 1. That the First Amended Complaint be dismissed, with prejudice and in its entirety;
19 2. That Mr. Simon, Ms. Stiehm, and the Individual Plaintiffs take nothing by this action
20 and that judgment be entered against Individual Plaintiffs and in favor of Defendant;
21 3. That Defendant be awarded its attorneys' fees and costs incurred in defending this
22 action;
23 4. That Defendant be granted such other and further relief as the Court may deem just and
24 proper.

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DATED: June 6, 2019

KENDALL BRILL & KELLY LLP

By: 

Richard B. Kendall
*Attorneys for Defendant Creative Artists Agency,
LLC*

1 **PROOF OF SERVICE**

2 At the time of service, I was over 18 years of age and not a party to this action. I am employed
3 in the County of Los Angeles, State of California. My business address is 10100 Santa Monica Blvd.,
4 Suite 1725, Los Angeles, CA 90067.

5 On June 6, 2019, I served true copies of the following document(s) described as
6 **DEFENDANT CREATIVE ARTISTS AGENCY, LLC'S ANSWER TO THE FIRST**
7 **AMENDED COMPLAINT OF PLAINTIFFS DAVID SIMON, MEREDITH STIEHM AND**
8 **INDIVIDUAL PLAINTIFFS FOR BREACH OF FIDUCIARY DUTY, CONSTRUCTIVE**
9 **FRAUD, UNFAIR COMPETITION (CAL. BUS. & PROF. CODE § 17200 ET SEQ.)** on the
10 interested parties in this action as follows:

11 **SEE ATTACHED SERVICE LIST**

12 **BY MAIL:** I enclosed the document(s) in a sealed envelope addressed to each interested party
13 at the address indicated above or on the attached service list. I placed each such envelope for
14 collection and mailing, following our ordinary business practices. I am readily familiar with Kendall
15 Brill & Kelly LLP's practice for collecting and processing correspondence for mailing. On the same
16 day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course
17 of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 true and correct.

20 Executed on June 6, 2019, at Los Angeles, California.

21
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23 Patricia S. Perelló
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1 **SERVICE LIST**

2
3 **Creative Artists Agency – Writers Guild of America**
4 **LASC Case No. 19SMCV00725**

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